## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:95-CR-149-1H

No. 5:12-CV-417-H

BELINDA RENEE BRYANT,	)	
	)	
Petitioner,	)	
	)	
	)	
V .	)	ORDER
	)	
UNITED STATES OF AMERICA	)	
	)	
Respondent.	)	
<u> </u>	,	

This matter is before the court on petitioner's motion filed March 4, 2013 entitled "Motion 2241 Habeas Corpus" in which she seeks relief in light of <u>United States v. Simmons</u>, 649 F.3d 237 (4th Cir. 2011).

"A petition for a writ of habeas corpus may only be brought in the court having jurisdiction over the petitioner or his place of incarceration." Hajduk v. United States, 764 F.2d 795, 796 (11th Cir. 1985). As petitioner is incarcerated at the Federal Correctional Institution in Marianna, Florida, she is outside the jurisdiction of the Eastern District of North Carolina for habeas corpus purposes. Therefore, defendant's motion is dismissed.

Petitioner's claims may arguably be more properly brought pursuant to 28 U.S.C. § 2255, however, petitioner previously filed a § 2255 motion, which the court denied on the merits on March 23, 2009. Because the motion presently before the court

is a successive § 2255 motion, this court is without jurisdiction to consider it. See 28 U.S.C. § 2255(h) ("A second or successive motion must be certified . . . by a panel of the appropriate court of appeals . . . .").

Finding no substantial issue for appeal concerning the denial of a constitutional right, <u>see</u> 28 U.S.C. § 2253(c)(2), a certificate of appealability is DENIED.

This  $30^{12}$  day of April 2013.

MALCOLM J. HOWARD

Senior United States District Judge

At Greenville, NC #26